

ty, in November, 1845, there is any ground apparent upon this record, upon which the validity of such an act could be disputed.

The question then is, have Albert and wife succeeded in establishing a valid agreement against Winn and Ross, and the creditors of Jones, represented by them, and in opposition to the statute of frauds?

This case is not like the case of *Alexander vs. Ghiselin*, 5 Gill, 138, for here, confessedly, the contract relates to land, which the court in that case say would have been a fatal objection, if the subject of the agreement there had been land.

Unless, therefore, Mr. and Mrs. Albert can succeed in taking the case out of the operation of the statute, or can show that its provisions have been complied with, they cannot have the lien which they claim on these proceeds.

They rely upon the answer of Jones, to the bill filed by them, on the equity side of Baltimore County Court in which the agreement as set up in the bill is admitted; and they insist, that notwithstanding the bill, and the proceedings upon it, were *coram non judice*, the answer may be used for the purpose of proving the agreement in this case.

The argument is, that the cause now to be decided, is founded, not upon the bill filed on the 14th of September, 1846, but upon that filed on the 13th January, 1847; and that as the latter bill refers to, and brings into this cause the bill and the proceedings upon it, filed by Albert and wife in Baltimore County Court, on the 29th of September, 1846, that bill and the answer to it of Jones, must be evidence in this case.

Upon referring, however, to the bill filed by Winn and Ross and others, on the 13th of January, 1847, it will be found, that the only reference made by it to the bill of Albert and wife, and the proceedings upon it, is in condemnation of it, and them. It impeaches them upon various grounds, and among others, upon the ground that they were in violation of the injunction of this court, granted on the 14th September, and were had before a court which had no jurisdiction to grant the relief prayed.

It has been remarked, and the proposition it is believed can-